

APPENDIX B

_____ **GRANT CONTRACT**
BETWEEN THE
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
AND THE _____

This Grant Contract ("Contract") is made between the Michigan Department of Environmental Quality, Environmental Science and Services Division ("State") and the _____ ("Grantee").

The purpose of this Contract is to provide funding in exchange for work to be performed for the project named below. The State is authorized to provide grant assistance pursuant to Section 319 of the Federal Clean Water Act. This Contract is subject to the terms and conditions specified herein.

Project Name: _____

Project #: _____

Amount of grant: _____

% of grant state 0 / % of grant federal 100

Amount of match: _____ = 25%

PROJECT TOTAL: _____ (grant plus match)

Start Date: _____

End Date: _____

GRANTEE CONTACT:

STATE'S CONTACT:

Name/Title

Name/Title

Organization

Division/Bureau/Office

Address

Address

Address

Address

Telephone number

Telephone number

Fax number

Fax number

E-mail address

E-mail address

Federal ID number

The individuals signing below certify by their signatures that they are authorized to sign this Grant Contract on behalf of their agencies, and that the parties will fulfill the terms of this Contract, including the attached appendices, and used only as set forth herein.

FOR THE GRANTEE:

Signature

Date

Name/Title

FOR THE STATE:

Recommended by:

Official Signature:

AMY A. BUTLER, CHIEF
ENVIRONMENTAL SCIENCE AND SERVICES DIVISION
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

STEVEN E. CHESTER, DIRECTOR
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

Date

Date

I. PROJECT SCOPE

This Contract and its appendices constitute the entire Contract between the State and the Grantee and may be modified only by written agreement between the State and the Grantee.

(A) The scope of this project is limited to the activities specified in Appendix A, and such activities as are authorized by the State under this Contract. Any change in project scope requires prior written approval in accordance with Section III, Changes, in this Contract.

(B) By acceptance of this Contract, the Grantee commits to complete the project identified in Appendix A within the time period allowed for in this Contract and in accordance with the terms and conditions of this Contract.

II. CONTRACT PERIOD

Upon signature by the State, the Contract shall be effective from the Start Date until the End Date on page 1. The State shall have no responsibility to provide funding to the Grantee for project work performed except between the Start Date and the End Date specified on page 1. Expenditures made by the Grantee prior to the Start Date or after the End Date of this Contract are not eligible for payment under this Contract.

III. CHANGES

Any changes to this Contract shall be requested by the Grantee in writing, and approved in writing by the State. The State reserves the right to deny requests for changes to the Contract or to the appendices. No changes can be implemented without approval by the State.

IV. GRANTEE DELIVERABLES AND REPORTING REQUIREMENTS

The Grantee shall submit deliverables and follow reporting requirements specified in the Program-Specific Elements and in Appendix A of this Contract.

(A) The Grantee must complete and submit quarterly financial and progress reports according to a form and format prescribed by the State and must include supporting documentation of eligible project expenses. These reports shall be due according to the following:

Reporting period	Due Date
January 1 – March 31	April 30
April 1 – June 30	July 31
July 1 – September 30	Before October 31*
October 1 – December 31	January 31

*Due to the State's year-end closing procedures, there will be an accelerated due date for the report covering July 1 – September 30. Advance notification regarding the due date for the quarter ending September 30 will be sent to the Grantee. If the Grantee is unable to submit a report in early October for the quarter ending September 30, an estimate of expenditures through September 30 must be submitted to allow the State to complete its accounting for that fiscal year.

The forms provided by the State shall be submitted to the State's contact at the address on page one. All required supporting documentation (invoices, etc.) for expenses must be included with the report.

(B) The Grantee shall provide a final project report in a format prescribed by the State. The Grantee must provide a draft final report 45 days prior to the end date of the contract. The Grantee shall submit the final progress report, including all supporting documentation for expenses, along with the final project report and any other outstanding products within 30 days from the End Date of the Grant.

(C) The Grantee must provide five (5) copies of all products and deliverables in accordance with Appendix A.

(D) All products shall acknowledge that the project was supported in whole or in part by the Nonpoint Source Program, Department of Environmental Quality, per the guidelines provided by the program.

(E) If ____ percent or more of the grant amount is expended in a single quarter, payment requests may be submitted once monthly during that quarter.

V. GRANTEE RESPONSIBILITIES

(A) The Grantee agrees to abide by all local, state, and federal laws, rules, ordinances and regulations in the performance of this grant.

(B) All local, state, and federal permits, if required, are the responsibility of the Grantee. Award of this grant is not a guarantee of permit approval by the State.

(C) The Grantee shall be solely responsible to pay all taxes, if any, that arise from the Grantee's receipt of this grant.

(D) The Grantee is responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by the Grantee or its subcontractor under this Contract. The Grantee or its subcontractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in designs, drawings, specifications, reports, or other services.

(E) The State's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the Grantee of responsibility for the technical adequacy of the work. The State's review, approval, acceptance, or payment for any of the services shall not be construed as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract.

(F) The Grantee acknowledges that it is a crime to knowingly and willingly file false information with the State for the purpose of obtaining this Contract or any payment under the Contract, and that any such filing may subject the Grantee, its agents, and/or employees to criminal and civil prosecution and/or termination of the grant.

VI. USE OF MATERIAL

Unless otherwise specified in this Contract, the Grantee may release information or material developed under this Contract, provided it is acknowledged that the State funded all or a portion of its development.

The State retains an irrevocable license to reproduce, publish and use in whole or in part, and authorize others to do so, any copyrightable material submitted under this grant whether or not the material is copyrighted by the Grantee or another person. The Grantee will only submit materials that the State can use in accordance with this paragraph.

Unless otherwise specified in this Contract, the Grantee may not patent products or processes developed under this Contract.

VII. ASSIGNABILITY

The Grantee shall not assign this Contract or assign or delegate any of its duties or obligations under this Contract to any other party without the prior written consent of the State. The State does not

assume responsibility regarding the contractual relationships between the Grantee and any subcontractor.

VIII. SUBCONTRACTS

The State reserves the right to deny the use of any consultant, contractor, associate, or other personnel to perform any portion of the project. The Grantee is solely responsible for all contractual activities performed under this Contract. Further, the State will consider the Grantee to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Grant. All subcontractors used by the Grantee in performing the project shall be subject to the provisions of this Contract and shall be qualified to perform the duties required.

IX. NON-DISCRIMINATION

The Grantee shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq, the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq, and all other federal, state and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Grantee agrees to include in every subcontract entered into for the performance of this Contract this covenant not to discriminate in employment. A breach of this covenant is a material breach of this Contract.

X. UNFAIR LABOR PRACTICES

The Grantee shall comply with the Employers Engaging in Unfair Labor Practices Act, 1980 PA 278, as amended, MCL 423.321 et seq.

XI. LIABILITY

(A) The Grantee, not the State, is responsible for all liabilities as a result of claims, judgments, or costs arising out of activities to be carried out by the Grantee under this Contract, if the liability is caused by the Grantee, any subcontractor, or anyone employed by the Grantee.

(B) All liability as a result of claims, demands, costs, or judgments arising out of activities to be carried out by the State in the performance of this Contract is the responsibility of the State and not the responsibility of the Grantee if the liability is caused by any State employee or agent, provided that nothing herein is construed as a waiver of any governmental immunity by the State, its agencies or employees as provided by statute or court decisions.

(C) In the event that liability arises as a result of activities conducted jointly by the Grantee and the State in fulfillment of their responsibilities under this Contract, such liability is held by the Grantee and the State in relation to each party's responsibilities under these joint activities, provided that nothing herein is construed as a waiver of any governmental immunity by the Grantee, the State, its agencies, or their employees, respectively as provided by statute or court decisions.

XII. CONFLICT OF INTEREST

No government employee, or member of the legislative, judicial, or executive branches, or member of the Grantee's Board of Directors, its employees, partner agencies or their families shall benefit financially from any part of this Contract.

XIII. ANTI-LOBBYING

If all or a portion of this contract is funded with federal funds, then in accordance with OMB Circular A-21, A-87, or A-122, as appropriate, the Grantee shall comply with the Anti-Lobbying Act, which prohibits the use of all project funds regardless of source, to engage in lobbying the state or federal government or in litigation against the State. Further, the Grantee shall require that the language of this assurance be included in the award documents of all subawards at all tiers.

If all or a portion of this contract is funded with state funds, then the Grantee shall not use any of the grant funds awarded in this contract for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2). "Lobbying" means communicating directly with an official of the executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action." The Grantee shall not use any of the grant funds awarded in this contract for the purpose of litigation against the State. Further, the Grantee shall require that language of this assurance be included in the award documents of all subawards at all tiers.

XIV. DEBARMENT AND SUSPENSION

By signing this Contract, the Grantee certifies to the best of its knowledge and belief that it, its agents, and its subcontractors:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or the state.
- (2) Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, as defined in 45CFR1185; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- (3) Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in subsection (2).
- (4) Have not within a three-year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.
- (5) Will comply with all applicable requirements of all other state or federal laws, executive orders, regulations, and policies governing this program.

XV. AUDIT AND ACCESS TO RECORDS

The State reserves the right to conduct a programmatic and financial audit of the project, and the State may withhold payment until the audit is satisfactorily completed. The Grantee will be required to maintain all pertinent records and evidence pertaining to the grant contract, including grant and any required matching funds, in accordance with generally accepted accounting principles and other procedures specified by the State. The State or any of its duly authorized representatives must have access, upon reasonable notice, to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Grantee will provide proper facilities for such access and inspection. All records must be maintained for a minimum of five (5) years after the final payment has been issued to the Grantee by the State.

XVI. INSURANCE

(A) The Grantee must maintain insurance that will protect it from claims that may arise from the Grantee's actions under this Contract or from the actions of others for whom the Grantee may be held liable.

(B) The Grantee must comply with applicable workers' compensation laws while engaging in activities authorized under this Contract.

XVII. FEES AND OTHER SOURCES OF FUNDING

The Grantee shall not seek nor obtain funding through fees or charges to any client receiving services for which the State reimburses the Grantee under this Contract. The Grantee guarantees that any claims made to the State under this Contract must not be financed by any source other than the State under the terms of this Contract. If funding is received through any other source, the Grantee agrees to delete from Grantee's billings, or to immediately refund to the State, the total amount representing such duplication of funding.

XVIII. COMPENSATION

(A) A breakdown of costs allowed under this Contract is identified in Appendix A. The State will pay the Grantee a total amount not to exceed the amount on page one of this Contract, in accordance with Appendix A, and only for expenses incurred and paid. All other costs necessary to complete the project are the sole responsibility of the Grantee.

(B) Expenses incurred by the Grantee prior to the Start Date or after the End Date of this Contract are not allowed under the Contract.

(C) The State will approve payment requests after approval of reports and related documentation as required pursuant to the Program-Specific Section.

(D) The State reserves the right to request additional information before approving a payment.

(E) An amount equal to **10 percent (10%)** of the last year of the grant award, _____, will be withheld by the State until the project is completed in accordance with Section XIX, Closeout and Appendix A.

(F) The Grantee is committed to the match percentage on page one of the Contract, in accordance with Appendix A. The Grantee shall expend all local match committed to the project by the End Date on page 1 of the Contract.

XIX. CLOSEOUT

(A) A determination of project completion, which may include a site inspection and an audit, shall be made by the State after the Grantee has met any match obligations, satisfactorily completed the activities, and provided products and deliverables described in Appendix A.

(B) Upon issuance of final payment from the State, the Grantee releases the State of all claims against the State arising under this Contract. Unless otherwise provided in this Contract or by State law, final payment under this Contract shall not constitute a waiver of the State's claims against the Grantee.

(C) The Grantee shall immediately refund to the State any payments in excess of the costs allowed by this Contract.

XX. CANCELLATION

This Contract may be canceled by the State, upon 30 days written notice, due to Executive Order, budgetary reduction, other lack of funding, upon request by the Grantee, or upon mutual agreement by the State and Grantee. The State reserves the right to provide just and equitable compensation to the Grantee for all satisfactory work completed under this Contract.

XXI. TERMINATION

(A) This Contract may be terminated by the State as follows.

(1) Upon 30 days written notice to the Grantee:

- a. If the Grantee fails to comply with the terms and conditions of the Contract, or with the requirements of the authorizing legislation cited on page 1, or the rules promulgated thereunder, or other applicable law or rules.
- b. If the Grantee knowingly and willingly presents false information to the State for the purpose of obtaining this Contract or any payment under this Contract.
- c. If the State finds that the Grantee, or any of the Grantee's agents or representatives, offered or gave gratuities, favors, or gifts of monetary value to any official, employee or agent of the State in an attempt to secure a sub-contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract.
- d. During the 30-day written notice period, the State shall also withhold payment for any findings under subparagraphs a through c, above.
- e. If the Grantee or any subcontractor, manufacturer or supplier of the Grantee appears in the register of persons engaging in unfair labor practices that is compiled by the Department of Labor & Economic Growth or its successor.

(2) Immediately and without further liability to the State if the Grantee, or any agent of the Grantee, or any agent of any subcontract is:

- a. Convicted of a criminal offense incident to the application for or performance of a State, public, or private contract or subcontract;
- b. Convicted of a criminal offense, including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees;
- c. Convicted under State or federal antitrust statutes; or
- d. Convicted of any other criminal offense which, in the sole discretion of the State, reflects on the Grantee's business integrity.
- e. Added to the federal or state Suspension and Debarment list.

(B) If a grant is terminated, the State reserves the right to require the Grantee to repay all or a portion of funds received under this Contract.

XXII. FEDERAL FUNDING REQUIREMENTS

A maximum of \$_____ or _____ % of total disbursements, is funded with Federal Funding. The Catalog of Federal Domestic Assistance (CFDA.) title is _____ and the CFDA number is _____. The federal grant number is _____, and this grant is funded with Federal funds from the U.S. Environmental Protection Agency. By accepting this Contract, the Grantee shall comply with all applicable Federal statutes and regulations in effect with respect to the period during which it receives grant funding. These regulations include, but are not limited to, the following:

(A) Grantees receiving \$500,000 or more in federal funds in their fiscal year shall have a single audit performed in compliance with OMB Circular A-133, Revised June 24, 1997, "Audits of State, Local Governments, & Non-Profit Organizations. This audit must be performed and copies provided to the appropriate agencies within nine months from the end of the grantee's fiscal year. The Grantee must submit a copy of the Audit Report to the Michigan Department of Environmental Quality at the following address:

Michigan Department of Environmental Quality
Finance and Business Services Division
Federal Aid Section
P.O. Box 30473

It is the responsibility of the Grantee to report the expenditures related to this grant on the Grantee's annual Schedule of Expenditures of Federal Awards.

(B) The Grantee agrees to fulfill conditions that the Federal Government has imposed on the State as a condition of Federal funding as indicated herein and in all appendices.

(C) The Grantee will comply with the Hatch Political Activity Act, as amended, 5 USC §§ 1501-1508, and the Intergovernmental Personnel Act of 1970 as amended by Title (6) of the Civil Service Reform Act, 42 USC § 4728, which states that employees working in programs financed with federal grants may not be a candidate for elective public office in a partisan election, use official authority or influence to affect the result of an election, or influence a state or local officer to provide financial support for a political purpose.

(D) In accordance with the USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance programs, the Grantee agrees to:

- (1) Accept the applicable "fair share" goals negotiated with USEPA by the Michigan Department of Environmental Quality as follows:
MBE 3% WBE 5%
- (2) Ensure to the fullest extent possible that at least 3% of Federal funds for prime contracts or subcontracts for supplies, construction, equipment or services are made available to organizations owned or controlled by socially and economically disadvantaged individuals and historically black colleges and universities, and that at least 5% of such funds are made available to organizations owned or controlled by women.
- (3) Include in bid documents the "Fair Share" goals listed above and require its contractors to include in their bid documents for subcontracts the above fair share percentages.
- (4) Follow the six affirmative steps stated in 40 CFR § 31.36 (e)(2).
- (5) Submit a USEPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Contracts, and Interagency Contracts" to the State beginning with the first quarter the Grantee receives the award and continuing until the project is completed.

(E) The Grantee agrees to ensure that all conference, meeting, convention or training space used and paid for in whole or in part by this Contract complies with the Hotel and Motel Fire Safety Act of 1990.

(F) The Grantee agrees to use recycled paper for all reports and materials which are prepared as a part of this Contract and delivered to DEQ.

(G) The Grantee agrees to comply with Section 129 of Public Law 100-590, the Small Business Administration Reauthorization and Amendment Act of 1988. Therefore, if the Grantee awards a contract under this assistance Contract, it will utilize the following affirmative steps relative to Small Business in Rural Areas (SBRA):

- (1) Place SBRA's on solicitation lists;
- (2) Ensure that SBRA's are solicited whenever they are potential sources;
- (3) Divide total requirements when economically feasible, into small tasks or quantities to permit maximum participation by SBRA's;

- (4) Establish delivery schedules, where the requirements of work will permit, which would encourage participation by SBRAs;
- (5) Use the services of the Small Business Administration and the Minority Business Development Agency of the US Department of Commerce, as appropriate; and
- (6) Require the Grantee, if it awards subcontracts, to take the affirmative steps in subparagraphs 1 through 5.

(H) Despite Paragraph VI, a grantee who is a small business firm or nonprofit organization as defined under the Bayh-Dole Act, as amended, 35 USC § 200, *et seq*, may patent products or processes developed under this Contract.

XXIII. QUALITY ASSURANCE/QUALITY CONTROL

A project-specific Quality Assurance Project Plan (QAPP) must be submitted to the State in accordance with guidance provided by the DEQ project administrator. Monitoring conducted prior to final DEQ approval of the QAPP will not be reimbursed.